Committee on Resources

Subcommittee on Forests & Forest Health

Testimony

Testimony Before the House Committee on Resources,

Subcommittee on Forests and Forest Health, on

"Wildlife Conservation on National Forests"

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July 22, 1999

Thank you, Madam Chair. I am Duane Shroufe, Director of the Arizona Game and Fish Department, a past president of the International Association of Fish and Wildlife Agencies, and chair of our Association's Land Resources Committee. As you know, all 50 State fish and wildlife agencies are members of the Association. On behalf of the Association, the Arizona Game and Fish Commission and the Arizona Game and Fish Department, I appreciate the opportunity to be here today to provide comments regarding fish and wildlife conservation and the States' wildlife management authorities, interests and activities as they relate to National Forest System lands.

The Association, founded in 1902, is a quasi-governmental organization of public agencies charged with the protection and management of North America's fish and wildlife resources. The Association's governmental members include the fish and wildlife agencies of the states, provinces, and federal governments of the U.S., Canada, and Mexico. All 50 states are members. The Association has been a key organization in promoting sound resource management and strengthening federal, state, and private cooperation in protecting and managing fish and wildlife and their habitats in the public interest.

The importance of National Forest System lands to the conservation of fish and wildlife resources nationwide cannot be overstated. There are approximately 192 million acres of lands managed by the Forest Service in the United States which include a tremendous variety of habitat types. In Arizona alone, the Forest Service manages nearly 11 million acres on seven National Forests with habitats ranging from Sonoran desertscrub on the Tonto National Forest to alpine tundra on the Coconino National Forest. These lands provide habitat for more than 700 species of fish and wildlife, including many species listed as Threatened or Endangered under the Endangered Species Act. The importance of Arizona's National Forest lands to wildlife conservation is demonstrated by the fact that the Arizona Game and Fish Department has provided briefings on the implementation of all Forest Land and Resource Management Plans in Arizona to the Arizona Game and Fish Commission at every regularly scheduled Commission meeting for the past eight

years.

I can also assure you that the other state fish and wildlife agencies share the view that the states' active involvement in management plans and implementation actions on National Forest System lands is an issue of great importance to the conservation of wildlife resources. Our State fish and wildlife agencies are continually engaged in efforts to assess comprehensively the status of the fish and wildlife resources, the availability of the different types of habitats, potential impacts to those resources and habitats, and land use trends, all with the objective of insuring the sustainability of those fish and wildlife resources for the use and enjoyment of their citizens. The National Forest System lands, and all public lands, play a significant and vital role in the sustainability of these resources. It is thus imperative that the Forest Service and the State fish and wildlife agencies work cooperatively to achieve this objective.

Let me briefly lay out the legal predicate underpinning the need for this collaborative effort for conservation of fish and wildlife resources on National Forest System lands.

The State fish and wildlife agencies have the responsibility for managing fish and wildlife populations on Forest Service lands while the Forest Service has the responsibility for managing the habitats on which these populations depend. Clearly, the successful management of fish and wildlife resources on National Forest System lands requires a cooperative effort between the State fish and wildlife agencies and the Forest Service.

Forest Service policy for many years has been to maintain a partnership with State fish and wildlife agencies in efforts to manage fish and wildlife on the national forests. The essence of this policy is articulated in Chapter 2603(2) of the Forest Service Manual: "Recognize the State wildlife and fish agencies as responsible for the management of animals and the Forest Service as responsible for the management of habitat." That long-standing division of responsibility is a direct reflection of the will of Congress first established one hundred years ago and consistently reaffirmed by Congress with increasing specificity. This jurisdictional allocation is carried forward in memoranda of understanding entered into between the Forest Service and state fish and wildlife agencies in all States where units of the National Forest System are located.

Congress defined the purposes for which national forests could be reserved and set apart from the public lands in the Organic Administration Act of June 4, 1897, 30 Stat. 34, 16 U.S.C. § 473 et seq. Congress intended national forests to be reserved for two purposes only: "to conserve the water flows and to furnish a continuous supply of timber for the people." A general reservation in the 1897 Organic Act provided that the "the State wherein any such national forest is situated shall not, by reason of establishment thereof, lose its jurisdiction . . . "§ 1, Act of June 4, 1897, 30 Stat. 36, 16 U.S.C. § 480. The general reservation provision of the 1897 Organic Act insured that state fish and wildlife laws would continue to extend to portions of the public lands reserved for national forest purposes.

In 1960, Congress broadened the purposes for which national forests are reserved beyond timber and watershed purposes. The Multiple Use-Sustained Yield Act declares it to be the policy of Congress that "the national forests are established and shall be administered for outdoor recreation, range, timber, watershed, and wildlife and fish purposes." 16 U.S.C. § 528.

Nevertheless, having named in the statute the five renewable surface resources for which national

forests are to be managed, Congress immediately reserved from its management directive state jurisdiction over wildlife and fish:

Nothing herein shall be construed as affecting the jurisdiction or responsibilities of the several States with respect to wildlife and fish on the national forests.

16 U.S.C. § 528. The accompanying House Report underscored the intent of the text:

Although this bill lists wildlife and fish among the purposes for which the national forests are established and administered, it should be understood that the enactment of this bill would not in any way affect the jurisdiction or responsibilities of the several States and their wildlife and fish agencies with respect to wildlife and fish on the national forests.

H. Rep. No. 1551, 86th Cong., 2d Sess. 2 (1960). The Multi Use-Sustained Yield Act was a watershed event. Congress redirected management of the national forests, prospectively broadening the purposes for which the forests are established and are to be administered, and making multiple use and sustained yield management no longer permissive but required. Congress, in section 3 of the Multi Use-Sustained Yield Act, authorized the Secretary of Agriculture "to cooperate with interested State and local governmental agencies and others in the development and management of the national forests," 16 U.S.C. § 530. State jurisdiction over fish and wildlife was expressly carved out of the broadened congressional directive relating to development and management of the national forests.

Section 4(b) of the Wilderness Act,, 16 U.S.C. § 1133 (b), directs that each federal agency administering any area designated as wilderness shall administer such area so as "to preserve its wilderness character." One of the "Special Provisions" of section 4 of the Wilderness Act provides that "Nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the several States with respect to wildlife and fish in the national forests." 16 U.S.C. § 1133 (d) (7).

Congress reaffirmed state authority over fish and wildlife in the Federal Land Policy Management Act of 1976, 43 U.S.C. §§ 1701-1784. FLPMA § 302 (b) directs the Secretaries of the Interior and of Agriculture to regulate the "use, occupancy, and development of the public lands" through permits, leases, licenses or other appropriate instruments," but the second provision of section 302(b) makes clear that the authority to regulate use and occupancy on national forests does not extend to two items:

Provided further: That nothing in this Act shall be construed as authorizing the Secretary concerned to require Federal permits to hunt and fish on public lands or on lands in the National Forest System and adjacent waters or as enlarging or diminishing the responsibility and authority of the States for management of fish and resident wildlife.

43 U.S.C. § 1732(b). While Congress in FLPMA § 302(b) explicitly reserved from the grant of authority to regulate occupancy and use authority to require Federal permits to hunt and fish, Congress did vest the Secretary of Agriculture with authority, to be exercised following consultation with the appropriate State fish and game department, to close areas of land in the National Forest System to hunting and fishing for reasons of public safety, administration, or compliance with provisions of applicable law. 43 U.S.C. § 1732(b).

Obviously, the management of fish and wildlife resources on National Forest System lands involves more than the harvest of these resources. Sound management must include proactive concepts and activities that promote the conservation of these valuable natural resources. As studies of the ecology of forests began to proliferate in the 1970s and 1980s, it became apparent that an interdisciplinary approach to forest management was necessary to adequately protect the diversity of biological communities that were present, or that could potentially be present, in forests and their associated riparian and wetland habitats.

The State fish and wildlife agencies believe there must be a consistent application of science-based management decisions on National Forest System lands. This involves adaptive management for the development and testing of technical approaches to integration and achievement of desired ecological objectives. Development of full scale monitoring and evaluation programs that include assessments of fish and wildlife resources have historically been weak links in Forest Service management practices, but are essential to the adaptive management approach. We must be able to determine to what degree management actions achieve the desired future conditions identified through cooperative management planning efforts. This management approach should be a continuing process of planning, monitoring, researching, evaluating, and adjusting (based on the results of the monitoring and evaluation) forest management approaches to achieve specific objectives for management of fish and wildlife and their habitats on National Forest System lands.

The State fish and wildlife agencies also realize that there are numerous challenges in order to manage fish and wildlife resources on National Forest System lands consistent with our missions and strategic plans. However, in order to have successful fish and wildlife management programs on these lands in accordance with our trust responsibilities and applicable laws and regulations, we must have strong interagency partnerships. To develop and maintain these partnerships, the State fish and wildlife agencies must be considered full natural resource management partners with respect to decisions and actions that can influence fish and wildlife resources on National Forest System lands. We believe the following attributes are important for the development of successful cooperative fish and wildlife management efforts on our National Forest System lands:

I. Maintain consistent application of land management planning processes that provide for early and frequent involvement by the State fish and wildlife agencies in Forest Service planning efforts. We believe that this is consistent with Congressional intent in affirming the authority and role of the State fish and wildlife agencies in the several laws relating to federal public lands. Close coordination between our agencies throughout the site-specific and programmatic Forest Service planning process, including the opportunity for state agency participation in interdisciplinary teams, is necessary. We appreciate the continued strong direction from Chief Dombeck towards this end.

2. Adequate funding must be provided for planning, implementing, monitoring and evaluating forest management and its associated impacts to fish and wildlife populations and their habitats. The Forest Service cost-share program for fish and wildlife conservation efforts which leverages limited federal dollars with those of partners as the State fish and wildlife agencies is a good example of an effective partnership which produces on-the-ground results.

3. Develop scientifically defensible management plans with the appropriate opportunity for public review and comment.

4. Fund research to develop and refine the analytical tools critical to fish and wildlife habitat management and to help expand the resource productivity options within the forests.

These attributes support a process that involves cooperation, planning, monitoring, researching, evaluating, and adjusting management approaches, which would maximize the benefits of adaptive management on our National Forest System lands. We believe that incorporating these attributes into site-specific and programmatic Forest Service planning efforts would help to achieve the long-term objectives associated with developing biologically sound fish and wildlife habitat management on our National Forest System lands.

The Association believes opportunities exist to improve fish and wildlife conservation on the National Forest System lands. To support these opportunities, the following recommendations are provided for the Subcommittee's considerations:

1. Recognize that the increasing demand for natural resource-related recreational opportunities will require increased management emphasis on fish and wildlife conservation and overall forest health. Commodity production is not necessarily inconsistent with these goals, and in many cases can contribute to also achieving these goals. The State fish and wildlife agencies can and should play a key role with the Forest Service in shaping forest plans to achieve these multiple objectives.

2. We must continue to improve relationships and develop strong partnerships among our agencies particularly at the local forest level, where the on-the-ground conservation efforts occur.

3. We need to combine our expertise, resources and funding to achieve common fish and wildlife conservation-related goals and objectives.

4. We need to share databases and other sources of information, including results of successful and unsuccessful fish and wildlife and forest management projects, in order to develop the best science-based decisions and projects to achieve common fish and wildlife conservation-related goals and objectives.

Before I close, let me share just a few observations and success stories from several states.

The Arizona Game and Fish Department and the Kaibab National Forest cooperated on bat research on the North Kaibab Ranger District with dramatic results. The spotted bat is considered a sensitive species by both agencies and has been proposed for listing under the Endangered Species Act because of its rarity. This joint research project produced valuable information on their natural history, and concluded that spotted bats are more common than previously believed.

The Coconino National Forest, the Arizona Game and Fish Department, the rancher, and the U.S. Fish and Wildlife Service are implementing projects under the recently completed East Clear Creek Watershed Recovery Strategy for the Little Colorado Spinedace and Other Riparian Species plan. This effort has already begun restoration of headwater meadow habitat in East Clear Creek. The plan integrated species management strategies for elk, cattle, and Spinedace, and included planning for recreation and recreational access. This strategy is anticipated to result in the recovery of this population of Little Colorado Spinedace by restocking these fish into restored headwaters. This effort should also benefit deer, turkey, and other riparian species such as leopard frogs and Mexican garter snakes.

In Colorado, a partnership between the State Division of Wildlife and the Forest Service has resulted in prescribed burns designed to enhance habitat for the Rocky Mountain bighorn sheep. In other cases, prescribed timber cutting has been used to benefit a variety of wildlife species, both game and nongame. Forests that are functioning within natural ranges of variation are more likely to provide the necessary habitat for all associated wildlife species. In this regard, wildlife species can be used as one measure of forest health. Active management of wildlife habitat is a cornerstone of wildlife management, and in certain cases, specific active management of forests is necessary to enhance some wildlife for the long term.

In January 1990, the Custer National Forest prepared and implemented the "Ruffed Grouse - Aspen Management Plan" in cooperation with the Montana Department of Fish, Wildlife and Parks. Anticipated outcomes are improved habitat conditions for ruffed grouse, creation of size and age class diversity among the aspen communities, reduced fuel loading, and benefits to other species dependant on aspen communities such as moose, white-tailed deer and a variety of non-game species. Initial on-the-ground project layout was developed between the Forest Service, Montana Department of Fish, Wildlife and Parks and the Ruffed Grouse Society with initial regeneration work commencing in the summer of 1990. Under this program several aspen stands have been cut or burned to stimulate regeneration each year since 1990.

Field work on a two year study to determine habitat preferences, nest success and chick production of female ruffed grouse on the Custer National Forest was completed during the summer of 1998 through the Biology Department of Montana State University graduate student program. Additional graduate studies are being developed to measure aspen's response to management and how aspen regeneration is influenced by site conditions and browsing by ungulate and domestic livestock using these sites. Additional work measuring ruffed grouse response to aspen management is also planned.

In closing, I would like to thank you, Madam Chair, for the opportunity to share the Association's perspectives on the issue of wildlife conservation on National Forest System lands, a subject of vital significance to our State fish and wildlife agencies, and the future of our fish and wildlife resources in this nation.

I would be pleased to answer any questions you or other committee members might have.

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